

**Introduced by Senators Monning and DeSaulnier**

February 4, 2014

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An act to add Article 1.4 (commencing with Section 678) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 941, as amended, Monning. Vessel operator cards.

(1) Existing law prohibits the operation or navigation of a for-hire vessel, as defined, in the waters of California while carrying passengers, except by a person who holds a valid operator's license issued by the Division of Boating and Waterways. Under existing law, a person applying for an operator's license is required to undergo an examination, that may include, among other things, an inspection of the for-hire vessel.

Existing law requires the division to approve boating safety courses and personal watercraft education courses, as specified.

This bill would prohibit the operation of a vessel that is propelled by an engine in the waters of the state except by a person who is in possession of a valid vessel operator card developed and issued by the division, and would impose that prohibition on persons pursuant to a specified schedule. The bill would exempt certain persons from that requirement and would allow a person who rents a vessel to instead possess a rental vessel operator card, as specified.

The bill would require the division to develop vessel operator cards and issue a vessel operator card to a person who provides the division with proof that the person has passed a vessel operator examination and would require the division to develop an examination and provide links

to approved examinations on its Internet Web site. The bill would require the division to charge an unspecified fee for those cards, would establish the Vessel Operator Certification Account in the Harbors and Watercraft Revolving Fund, and would require the fees to be deposited in that account. The bill would authorize the division to expend the moneys in the account, upon appropriation by the Legislature, for purposes of the vessel operator card program.

The bill would require the division to adopt implementing regulations.

The bill would require an amount not to exceed \$4,000,000 to be transferred, upon appropriation in the annual Budget Act, from the Harbors and Watercraft Revolving Fund to the Vessel Operator Certification Account in the form of a loan to be used by the division to develop and establish the program. The bill would require the division to repay the loan from fees received from the issuance of vessel operator cards within 3 years of the effective date of the regulations issued by the division.

The bill would provide that a violation of the bill's provisions is an infraction, and would require a court to order a person who violates those provisions to complete and pass a boating safety course approved by the division. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 1.4 (commencing with Section 678) is  
2 added to Chapter 5 of Division 3 of the Harbors and Navigation  
3 Code, to read:

4  
5 Article 1.4. Vessel Operators' Education and Certification Cards

6  
7 678. The division shall adopt regulations to implement this  
8 article or to make this article more specific, including regulations

1 setting forth the fees to be charged and collected pursuant to  
2 Section 678.5.

3 678.3. (a) On or before December 31, 2017, the division shall  
4 develop a vessel operator card and a rental vessel operator card to  
5 be issued pursuant to this article.

6 (b) The division shall issue, or cause to be issued, a vessel  
7 operator card to a person who provides the division with proof that  
8 the person has passed a vessel operator examination approved by  
9 the division or a vessel operator course that includes an  
10 examination and is approved by the division pursuant to Section  
11 668.1 or 668.3.

12 (c) Except for a rental vessel operator card issued pursuant to  
13 Section 678.15, a vessel operator card shall be valid for the life of  
14 the person to whom it is issued.

15 678.5. (a) (1) The division shall determine the fees required  
16 under this section in amounts sufficient to cover the reasonable  
17 costs of the development, establishment, and operation of the  
18 program. The fees shall not exceed those costs.

19 (2) The division shall charge a fee not to exceed \_\_\_\_ for the  
20 initial vessel operator card issued pursuant to subdivision (b) of  
21 Section 678.3.

22 (3) The division shall charge a fee not to exceed \_\_\_\_ for a  
23 duplicate vessel operator card issued pursuant to subdivision (b)  
24 of Section 678.3.

25 (b) In determining the amount of the fees imposed pursuant to  
26 this section, the division shall establish, and consult with, a  
27 technical advisory group consisting of interested persons, including,  
28 but not limited to, representatives of the boating community. The  
29 director shall appoint the members of the advisory group.

30 (c) The fees collected pursuant to this section shall be deposited  
31 in the Vessel Operator Certification Account, which is hereby  
32 established within the Harbors and Watercraft Revolving Fund.

33 (d) The division may expend the moneys in the Vessel Operator  
34 Certification Account, upon appropriation by the Legislature, for  
35 purposes of implementing this article.

36 678.7. (a) The division shall develop and provide a vessel  
37 operator examination on the division's Internet Web site and shall  
38 provide links from the division's Internet Web site to other vessel  
39 operator examinations approved by the division that are available

1 through a provider whose course has been approved by the National  
2 Association of State Boating Law Administrators.

3 (b) If the division contracts for the provision of vessel operator  
4 examination services with test vendors, the division shall conduct  
5 a formal competitive bid process and shall contract with more than  
6 one vendor for those services.

7 (c) A vessel operator examination developed or approved by  
8 the division shall be consistent with the National Association of  
9 State Boating Law Administrators' National Boating Education  
10 Standards, as applicable to basic vessel operations, rules of  
11 navigation, and boating safety only.

12 678.9. (a) An amount not to exceed four million dollars  
13 (\$4,000,000) shall, upon appropriation in the annual Budget Act,  
14 be transferred from the Harbors and Watercraft Revolving Fund  
15 to the Vessel Operator Certification Account in the form of a loan  
16 to be used by the division to develop and establish the program  
17 under this article.

18 (b) The division shall repay the loan described in subdivision  
19 (a) from fees received pursuant to Section 678.5 within three years  
20 of the effective date of the regulations issued by the division  
21 pursuant to this article.

22 (c) If the division has not repaid the loan within the time period  
23 specified in subdivision (b), the division shall notify the Joint  
24 Legislative Budget Committee.

25 (d) The loan shall not impair the intended expenditure purposes  
26 of the Harbors and Watercraft Revolving Fund.

27 678.11. (a) On or before ~~December 31, 2018~~, *April 1, 2019*,  
28 and on or before ~~December 31~~ *April 1* annually thereafter, the  
29 division shall prepare a report ~~regarding the total number of vessel~~  
30 ~~operator cards issued pursuant to this article and shall include~~  
31 ~~information about the correlation between vessel operator cards~~  
32 ~~issued and the number of accidents, injuries, and fatalities related~~  
33 ~~to the operation of vessels in the state. The that includes all of the~~  
34 *following information with respect to the prior calendar year:*

35 (1) *The total number of vessel operator cards issued pursuant*  
36 *to this article.*

37 (2) *The fees collected, and the costs incurred, by the division*  
38 *pursuant to this article.*

1     (3) *The correlation between vessel operator cards issued and*  
2 *the number of accidents, injuries, and fatalities related to the*  
3 *operation of vessels in the state.*

4     (4) *The total number of violations of this article.*

5     (b) The report shall be posted on the division's Internet Web  
6 site.

7     678.13. (a) Subject to the schedule in subdivision (b), a person  
8 shall not operate on waters subject to the jurisdiction of the state  
9 a vessel that is propelled by an engine, regardless of whether the  
10 engine is the principal source of propulsion, unless the person has  
11 in his or her possession a vessel operator card issued by the division  
12 pursuant to subdivision (b) of Section 678.3.

13     (b) A person is subject to subdivision (a) according to the  
14 following schedule:

15     (1) On and after January 1, 2018: A person 20 years of age or  
16 younger.

17     (2) On and after January 1, 2019: A person 25 years of age or  
18 younger.

19     (3) On and after January 1, 2020: A person 35 years of age or  
20 younger.

21     (4) On and after January 1, 2021: A person 40 years of age or  
22 younger.

23     (5) On and after January 1, 2022: A person 45 years of age or  
24 younger.

25     (6) On and after January 1, 2023: A person 50 years of age or  
26 younger.

27     (7) On and after January 1, 2024: A person 60 years of age or  
28 younger.

29     (8) On and after January 1, 2025: All persons, regardless of age.

30     (c) This section does not apply to the following:

31     (1) A person who is a resident of another state or a foreign  
32 country who is operating a vessel and meets either of the following  
33 requirements:

34     (A) The person is temporarily using the waters of this state for  
35 a period not to exceed 60 days, and meets the applicable  
36 requirements, if any, of his or her state of residency.

37     (B) The person is temporarily using the waters of this state for  
38 a period not to exceed 90 days, and meets the applicable  
39 requirements, if any, of his or her country of residency.

1 (2) A person operating a vessel while under the direct  
2 supervision of a person 18 years of age or older who is in  
3 possession of a vessel operator card issued pursuant to subdivision  
4 (b) of Section 678.3 or a rental vessel operator card issued pursuant  
5 to Section 678.15 or is not required to possess a vessel operator  
6 card pursuant to paragraph ~~(7)~~. (6).

7 (3) A person operating a vessel in an organized regatta or vessel  
8 race, or water ski race.

9 (4) A person operating a ~~rented~~ rental vessel who is in  
10 possession of a rental vessel operator card pursuant to Section  
11 678.15.

12 (5) A person who is in possession of a current commercial  
13 fishing license.

14 (6) A person who is in possession of a valid marine operator  
15 license, for the waters upon which the licensee is operating, issued  
16 by the United States Coast Guard.

17 678.15. (a) On and after January 1, 2018, a person engaged in  
18 the business of providing for rent a vessel or vessels propelled by  
19 an engine, regardless of whether the engine is the principal source  
20 of propulsion, shall require the renter or operator of the rental  
21 vessel to show proof of possession of a vessel operator card issued  
22 pursuant to subdivision (b) of Section 678.3 before renting a vessel.  
23 If the renter or operator of the ~~rented~~ rental vessel does not provide  
24 proof of possession of a vessel operator card, the rental agent shall,  
25 subject to the requirements of subdivision (b), issue to the renter  
26 or operator of the rental vessel a rental vessel operator card  
27 developed by the division pursuant to subdivision (a) of Section  
28 678.3 and a map of the waterway the renter or operator indicates  
29 is the location of intended operation.

30 (b) (1) The rental vessel operator card shall be issued only to  
31 a person who completes and passes a rental vessel operator  
32 examination that is developed or approved by the division for the  
33 purpose of this section.

34 (2) The rental vessel operator examination that is developed by  
35 the division shall be an abbreviated version of the vessel operator  
36 examination developed by the division pursuant to Section 678.7  
37 with a focus on basic vessel operation, navigation, and safety.

38 (3) The division shall also approve site-specific rental vessel  
39 operator examinations. These site-specific examinations shall be  
40 tailored to and recognize the vessel rental circumstances, include

1 information specific to the type of vessel and the type of waterway,  
2 and provide information concerning state boating laws, operating  
3 instructions, equipment operation, and boating safety.

4 (4) A person may satisfy the requirements of the rental vessel  
5 operator examination by passing the division-developed rental  
6 operator examination or an approved site-specific rental vessel  
7 operator examination.

8 (c) A rental vessel operator card shall be valid for a period of  
9 not more than 30 days from the date of the initial rental for which  
10 the card was issued pursuant to subdivision (a).

11 678.17. (a) A violation of this article is an infraction.

12 (b) A person convicted of an infraction for a violation of this  
13 article shall be punished as follows:

14 (1) For an initial conviction, by a fine of not more than one  
15 hundred dollars (\$100).

16 (2) For a second conviction, by a fine of not more than two  
17 hundred fifty dollars (\$250).

18 (3) For a third or subsequent conviction, by a fine of not more  
19 than five hundred dollars (\$500).

20 (c) A fine imposed on a vessel operator pursuant to subdivision  
21 (b) shall be waived, if the vessel operator provides proof that he  
22 or she had a valid vessel operator card or rental vessel operator  
23 card at the time of the citation.

24 (d) (1) In addition to the fines imposed by subdivision (b), the  
25 court shall order a person convicted of violating this article to  
26 complete and pass a boating safety course approved by the division  
27 pursuant to Section 668.3.

28 (2) If a person who is ordered to complete and pass a boating  
29 safety course pursuant to paragraph (1) is 18 years of age or  
30 younger, the court may require that person to obtain the consent  
31 of a parent or guardian to enroll in that course.

32 (3) A person who has been ordered by a court to complete a  
33 boating safety course pursuant to paragraph (1) shall submit to the  
34 court proof of completion and passage of the course within seven  
35 months of the date of his or her conviction. The proof shall be in  
36 a form that has been approved by the division and that is capable  
37 of being submitted to the court or a state or local agency approved  
38 by the division through the United States Postal Service or another  
39 certified means of transmission.

1 SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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